

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN RE COMPLIANCE)	PDC CASE NO: #01-133
WITH RCW 42.17)	
)	
)	REPORT OF INVESTIGATION
GEOFF SIMPSON)	
)	
Respondent.)	
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I.

BACKGROUND

- 1.1 On September 19, 2000, the Public Disclosure Commission received a complaint from Senator Don Benton. He alleged violations of RCW 42.17.130 by Mr. Geoff Simpson, a successful 2000 candidate for State Representative from Covington, for use of City of Kent Fire District property and personnel in his 2000 election campaign ads.

II.

SCOPE

- 2.1 Staff reviewed the following documents from the complainant:
1. Complaint letter received September 22, 2000 from Senator Benton.
 2. Attached political advertisements entitled "It Takes Courage", sponsored and paid for by the Geoff Simpson campaign.
- 2.2 Staff reviewed the following documents from the complainant:
1. Letter of response from Geoff Simpson, dated November 9, 2000.
 2. Second letter of response from Geoff Simpson dated February 28, 2001.
 3. Third letter of response filed by James D. Oswald on behalf of Geoff Simpson on June 29, 2001.
- 2.3 Staff reviewed the following documents from the City of SeaTac:

1. Letter of response from Calvin P. Hoggard, City Manager for the City of SeaTac received January 11, 2001.
2. Second letter of response from Calvin P. Hoggard, City Manager for the City of SeaTac received March 7, 2001.
- 2.4 Staff members of the Public Disclosure Commission conducted an interview under oath with Geoff Simpson, on December 21, 2000 via telephone.
- 2.5 Staff members of the Public Disclosure Commission conducted an interview under oath with Brian Dalralcon, professional photographer for Geoff Simpson on March 21, 2001 via telephone.
- 2.6 Staff members of the Public Disclosure Commission conducted an interview under oath with Lisa Collins, Moxee Media consultant, on March 25, 2001 via telephone.
- 2.7 Staff members of the Public Disclosure Commission conducted an interview under oath with Chief Jim Downs, of the SeaTac Fire Department on March 28, 2001 via telephone.
- 2.8 Staff members of the Public Disclosure Commission conducted an interview under oath with Captain John Gallup, of the SeaTac Fire Department on April 4, 2001 via telephone.
- 2.9 Staff members of the Public Disclosure Commission conducted an interview under oath with Kevin Rojecki, of the SeaTac Fire Department on April 5, 2001 via telephone.

III.

APPLICABLE LAW AND ADMINISTRATIVE RULES

3.1 **RCW 42.17.130**

Forbids use of public office or agency facilities in campaigns.

No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency: PROVIDED, That the foregoing provisions of this section shall not apply to the following activities:

(3) Activities which are part of the normal and regular conduct of the office or agency.

IV.

FINDINGS

4.1 On January 18, 2000, Geoff Simpson filed a candidate registration form (PDC form C1) for election to the position of State Representative in the 47th Legislative District. His name appeared on both the September 19, 2000 Primary Election ballot and the November 7, 2000 General Election ballot. Mr. Simpson defeated Phil R. Fortunato, with 50.15% of the vote. Concurrently, Mr. Simpson was employed by the City of Kent as a firefighter and served as City of Covington Councilmember.

4.2 On September 29, 2000, the Public Disclosure Commission received a letter of complaint from Senator Benton alleging a violation of RCW 42.17.130 by Mr. Geoff Simpson, a candidate for the State House of Representatives, for use of City of Kent Fire District property and personnel in his 2000 election campaign ads. **(Exhibit 1)** Senator Benton alleges that Geoff Simpson used public facilities to include City of Kent property and public employees in his campaign literature. Attached to the letter of complaint were portions of Mr. Simpson's political advertisements containing the following photos:

1. Mr. Simpson seated a desk in an office, wearing business attire. **(Exhibit 2)**.
2. Mr. Simpson seated with his family outdoors, wearing a polo shirt with fire logo. **(Exhibit 3)**
3. Mr. Simpson in fire bunker gear, holding a fire hose, and wearing a helmet marked "4N"(a similarly dressed firefighter is behind him) **(Exhibit 4)**
4. An ad bearing two pictures of Mr. Simpson, the first is identical to Exhibit 2 (seated outdoors), the second photo shows him in a fire department uniform shirt checking the blood pressure of a person. **(Exhibit 5)**
5. An ad containing two pictures of Mr. Simpson; the first dressed in bunker gear, similar to Exhibit 4, working on a car with two similarly dressed firefighters. The second photo shows him meeting with two people outside a building marked "City Hall". He is dressed in business attire. **(Exhibit 6)**
6. An ad containing two pictures, the first photo is identical to Exhibit 4 (checking blood pressure), the second photo is with two small children. His clothing is not identifiable in the second photo. **(Exhibit 7)**

4.3 On November 9, 2000, Geoff Simpson filed a response to the complaint. **(Exhibit 8)** Mr. Simpson provided the following information concerning the alleged use of public facilities to produce his campaign advertising:

- A. Mr. Simpson stated that the "4N" marking shown on the firefighter's helmet is **"not an official fire department designation, and does not belong to the City of Kent."**
- B. Mr. Simpson stated **"none of the people in any (of his) photographs are employed by the City of Kent."**

- C. Mr. Simpson's fire department clothing, which appears in the political advertising, are provided by the City of Kent in accordance with a union contract.
 - D. The name of **"the Kent Fire Department is not displayed in any photograph."**
 - E. Mr. Simpson explains that **"firefighters are routinely photographed while on-duty and during special assignments"** and the public routinely take photographs of them.
 - F. **"The City of Kent was not consulted as to whether it was permissible for personnel to be photographed while in uniform and/or engaged in workplace activities for use in campaign brochures."**
 - G. Mr. Simpson states **"no City of Kent employee was photographed on City of Kent property for use in any campaign brochures."**
- 4.4 On December 21, 2000, Mr. Simpson was interviewed under oath by Public Disclosure staff via telephone. **(Exhibit 9)** During the interview, Mr. Simpson provided the following explanation of his political advertising:
- A. Mr. Simpson stated that the pictures of him in fire equipment were taken at the SeaTac Fire Department Headquarters. Any department equipment shown, specifically the bunker uniform, the fire truck and the firefighting equipment, is the property of the SeaTac Fire Department.
 - B. The SeaTac Fire Department volunteered use of this equipment to him for the photos.
 - C. One photograph shows Mr. Simpson in a shirt with fire logo that he personally purchased.
 - D. Mr. Simpson stated the individuals in the photos are firefighters from the SeaTac Fire Department, his family, or unknown people.
 - E. A private photographer hired for his campaign took all photographs.
 - F. Mr. Simpson stated the office pictures were taken in a private office.
 - G. Mr. Simpson stated that a knowledgeable friend had advised him that campaign pictures taken without using his employer's (City of Kent) equipment would comply with campaign law.
- 4.5 On February 28, 2001, Geoff Simpson filed a second response to the complaint in response to a further PDC inquiry. **(Exhibit 10)** In the letter, Mr. Simpson stated:
- A. The address of the fire station used in the Mr. Simpson's political advertising, all taken on July 21, 2000, was the SeaTac Fire Department, 2929 South 200th Street, SeaTac, Washington 98198.
 - B. The professional photographer contracted for the political advertising was Brian Dalbalcon, of 4006 North 7th Street, Tacoma.
 - C. Mr. Simpson stated **"It was my understanding that Fire Chief Jim Downs (of the SeaTac Fire Department) gave verbal approval for me to have photos taken at the SeaTac Fire Department, provided that no department insignias or identifying marks were present on the campaign brochure."**

- 4.6 On January 8, 2001, Chief Jim Downs of the SeaTac Fire Department initially contacted the Public Disclosure Commission staff and stated the photographs in question were definitely not his equipment or personnel. **(Exhibit 11)** On March 2, 2001, Chief Downs contacted the PDC and stated that he may have further information for the investigation. PDC staff later interviewed Chief Downs on March 28, 2001.
- 4.7 On January 11, 2001 Calvin Hoggard, City Manager for the City of SeaTac, filed a response to the complaint initially denying any use of City of SeaTac facilities in Geoff Simpson's political advertising. **(Exhibit 12)** On March 7, 2001, Mr. Hoggard filed a second response to the complaint acknowledging use of City of SeaTac facilities in Mr. Simpson's brochures. **(Exhibit 13)** Mr. Hoggard stated that after meeting with Captain John Gallup and Fire Fight Richard R. Knight on February 26, 2001, he was advised that Captain John Gallup of the SeaTac Fire Department had agreed to the use of city fire equipment and on-duty firefighters for the photo shoot for the Simpson campaign.

Mr. Hoggard further stated all SeaTac Fire Department personnel were given an Association of Washington Cities brochure in July or August of 1999 entitled "Use of Public Facilities to Support or Oppose Ballot Propositions". This brochure provided the city's policy on the prohibition of use of public facilities in campaigns. A copy of this brochure was enclosed with his letter. **(Exhibit 14)**

- 4.8 On March 21, 2001, Brian Dalbalcon, the photographer contracted by Geoff Simpson, was interviewed under oath by Public Disclosure staff via telephone. **(Exhibit 15)** During the interview, Mr. Dalbalcon provided the following explanation of the photo shoot:
- A. Mr. Dalbalcon stated he is a professional photographer, and conducted a photo shoot for the Geoff Simpson's campaign in late July of 2000.
 - B. The photo shoot lasted an entire day, and included scenes shot at a SeaTac Fire Station. These shots included a fire truck and firefighters dressed in various uniforms.
 - C. Mr. Dalbalcon stated, **"we shot at the fire station and it was done with the full blessing of the fire department and the chief and all the firefighters who were involved."**
 - D. Mr. Dalbalcon stated there was six to eight fire service people present, including a chief or captain (someone in charge). He did not know the names of any of the fire service people.
 - E. Mr. Dalbalcon stated the political consultant, Lisa Collins of Moxee Media arranged the photo session. He believed that Mr. Simpson had gotten permission to use the fire equipment for the session.
- 4.9 On March 26, 2001, Lisa Collins of Moxee Media, the consultant contracted by Geoff Simpson, was interviewed under oath by Public Disclosure staff via

- telephone. **(Exhibit 16)** During the interview, Ms. Collins provided the following explanation of the photo shoot:
- A. Ms. Collins stated that she works for Moxee Media, doing general consulting and direct mail for campaigns.
 - B. Ms. Collins coordinated and set up portions of photo sequence of the political advertising in question, and she hired Mr. Dalbalcon to take the photographs.
 - C. Ms. Collins confirmed that the photo shoot occurred on July 21, 2000, and one of the locations was the SeaTac fire station. Ms. Collins stated that she did not coordinate this portion of the photo sequence, **"my understanding is that Geoff did."** She did not know the names of the firefighters present during the photo shoot, or who was in charge of them.
 - D. Ms. Collins believed that the use of fire equipment and personnel was permissible as long as all department identification was removed.
- 4.10 On March 28, 2001, Chief Jim Downs of the SeaTac Fire Department used in Mr. Simpson's political advertising was interviewed under oath by Public Disclosure staff via telephone. **(Exhibit 17)** During the interview, Chief Downs provided the following explanation of the photo shoot:
- A. Chief Downs stated he is currently Chief of the City of SeaTac Fire Department, and was during the year 2000.
 - B. Chief Downs stated he did not authorize use of City facilities for the purposes set forth in this investigation.
 - C. Chief Downs first learned that Mr. Simpson had used his Department's equipment for a photo shoot after a PDC inquiry, and preliminary investigation of his own, which initially did not find any use of these facilities.
 - D. After his preliminary investigation, Chief Downs said that the Union notified the City Manager that this photo session had occurred using SeaTac facilities.
- 4.11 On April 4, 2001, Captain John Gallup of the SeaTac Fire Department was interviewed under oath by Public Disclosure staff via telephone. **(Exhibit 18)** During the interview, Captain Gallup provided the following explanation of the photo shoot:
- A. Captain Gallup stated that he was acting Battalion Chief for the City of SeaTac Fire Department on July 21, 2001.
 - B. Captain Gallup's Union President, Kevin Rojecki, told him that Geoff Simpson would be taking some campaign photos on the morning of July 21, using the fire truck. Captain Gallup stated, **"he [Rojecki] had let the chief know that we were doing that activity."**
 - C. Rojecki told Captain Gallup that Chief Downs had authorized the photo session, and told Rojecki that he wanted to review the photos. Rojecki said that the Chief felt that if no names, logos or icons appeared in the pictures, it would not be inappropriate use.
 - D. The photo session took place at the main SeaTac Fire Station on July 21, 2000. The photos included seven on-duty SeaTac firefighters in City gear, and the City fire engine. Mr. Simpson was present and included in the photos.

- 4.12 On April 5, 2001 Firefighter Kevin Rojecki of the SeaTac Fire Department was interviewed under oath by Public Disclosure staff via telephone. **(Exhibit 19)** During the interview, Kevin Rojecki provided the following explanation of the photo shoot:
- A. Mr. Rojecki said that he had prearranged the photo session with Mr. Simpson, and had then met with Chief Downs to discuss it.
 - B. Mr. Rojecki stated that he asked Chief Downs for approval for the photo shoot in April 2000 and discussed that the photos should not contain any identifying markings or logos. Chief Downs also requested to see the photographs before they were in print.
 - C. Mr. Rojecki stated that he was the Union President, but was not present at the actual photo session.
 - D. Mr. Rojecki stated that Chief Downs did not review the photos after they were taken.
- 4.13 The actual photographs document use of the City of SeaTac's facilities on July 21, 2000 by Mr. Simpson for his 2000 political campaign advertising. The statements of Mr. Simpson, City Manager Mr. Hoggard, photographer Mr. Dalbalcon, consultant Ms. Collins and Fire Captain Gallup further substantiate this event. Facilities included seven on-duty firefighters, uniforms for eight people and a fire truck. The size of the resulting campaign mailing was 52,895 brochures mailed to individuals in the 47th Legislative District. The brochures were mailed between August 28, 2000, and October 16, 2000. **(Exhibit 20).**
- 4.14 On April 24, 2001, the City of SeaTac issued a letter of reprimand to Chief Jim Downs. **(Exhibit 21)** Chief Downs was reprimanded for (1) limiting his initial investigation to considering only of the campaign literature photographs; (2) expressing unwillingness to hear further information offered by an involved fire department employee and Union official; and (3) failure to provide proper training and instruction in accordance with state statute and city policy on use of facilities in election campaigns and an apparent acquiescence in a claimed "pervasive belief" that on-duty assistance in political campaigns would be tolerated by City and Fire Administration if identifying features were concealed. The City of SeaTac issued corrective letters to John Gallup, and Kevin Rojecki, as well as five other SeaTac fire fighters.
- 4.15 On December 21, 2001, Chief Jim Downs of the SeaTac Fire Department was interviewed under oath by Public Disclosure staff via telephone. **(Exhibit 22)** During the interview, Chief Downs provided the following explanation of the alleged meeting with Kevin Rojecki, during which Chief Downs was alleged to have given authorization for use of public facilities:
- A. Chief Downs did not authorize use of fire district facilities for any photo shoot. He stated he never heard of Geoff Simpson's name until the PDC notified him of the complaint.

- B. Chief Downs stated he never spoke to Rojecki on use of facilities. One time they spoke about use of logos, during which Chief Downs stated you could never use logos for use in campaigns. Geoff Simpson's name was never mentioned.
- C. Chief Downs stated that he had an open door policy to his firefighters. Due to Rojecki's role as union president, Chief Downs offered to Rojecki to review his activities, if Rojecki were confused on whether his actions were union related or considered permissible by the city.

Respectfully submitted this 29th day of June, 2001.

Nick Hawkinson
Investigator

Respectfully submitted this 26th day of December, 2001.

Suemary Trobaugh
Senior Political Finance Specialist

EXHIBIT LIST

- Exhibit 1.** Letter of complaint filed on September 29, 2000 by Senator Don Benton.
- Exhibit 2.** Geoff Simpson political advertising containing office picture.
- Exhibit 3.** Geoff Simpson political advertising containing family picture.
- Exhibit 4.** Geoff Simpson political advertising containing his picture in bunker gear.
- Exhibit 5.** Geoff Simpson political advertising containing two separate pictures.
- Exhibit 6.** Geoff Simpson political advertising containing pictures with car and at City Hall.
- Exhibit 7.** Geoff Simpson political advertising containing pictures - one with children.
- Exhibit 8.** Response letter filed by Geoff Simpson on November 9, 2000.
- Exhibit 9.** Interview with Geoff Simpson conducted on December 21, 2000 via telephone.

- Exhibit 10.** Response letter filed by Geoff Simpson on further inquiry filed on February 28, 2001.
- Exhibit 11.** PDC letter of inquiry sent to Chief Jim Downs
- Exhibit 12.** Letter of response from Calvin P. Hoggard, City Manager for the City of SeaTac received January 11, 2001.
- Exhibit 13.** Second letter of response from Calvin P. Hoggard, City Manager for the City of SeaTac received March 7, 2001.
- Exhibit 14.** City of SeaTac brochure - use of facilities
- Exhibit 15.** Interview with Brian Dalbalcon conducted on March 21, 2001 via telephone.
- Exhibit 16.** Interview with Lisa Collins conducted on March 25, 2001 via telephone.
- Exhibit 17.** Interview with Chief Jim Downs conducted on March 28, 2001 via telephone.
- Exhibit 18.** Interview with Captain John Gallup conducted on April 4, 2001 via telephone.
- Exhibit 19.** Interview with Kevin Rojecki conducted on April 5, 2001 via telephone.
- Exhibit 20.** Third letter of response filed by James D. Oswald on behalf of Geoff Simpson on June 29, 2001.
- Exhibit 21.** Letter of reprimand to Chief Jim Downs dated April 24, 2001 from the City of SeaTac.
- Exhibit 22.** Interview with Chief Jim Downs conducted on December 21, 2001 via telephone.